

1 [Building Code - Expanded Compliance Control and Consumer Protections Where History of
2 Significant Violations]

3 **Ordinance amending the Building Code to implement expanded compliance control**
4 **and consumer protection provisions for projects, individuals, agents, and entities with**
5 **a history of significant violations; and affirming the Planning Department’s**
6 **determination under the California Environmental Quality Act.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Findings.

16 (a) The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. 210015 and is incorporated herein by reference. The Board affirms
20 this determination.

21 (b) The Building Inspection Commission considered this ordinance on February 17,
22 2021, at a duly noticed public hearing, pursuant to Charter Section D3.750-5.

23 Section 2. California Health and Safety Code Section 17958.7. No local findings are
24 required under California Health and Safety Code Section 17958.7 because the amendments
25 to the Building Code contained in this ordinance do not regulate materials or manner of

1 construction or repair, and instead relate in their entirety to administrative procedures for
2 implementing the code and remedies available for enforcing code violations, which are
3 expressly excluded from the definition of a “building standard” by California Health and Safety
4 Code Section 18909(c).

5
6 Section 3. The Building Code is hereby amended by adding Section 103A.6, to read
7 as follows:

8 **103A.6 Expanded Compliance Control and permit review.**

9 **103A.6.1 Significant violation tracking reports.**

10 When a building inspector issues a Notice of Violation in which there is an instance of:

11 (1) Misrepresentation of existing conditions that results in circumvention of notification or
12 review requirements;

13 (2) Structural work or demolition of structural features without or beyond the scope of a
14 building permit, or other work without or beyond the scope of a building permit that endangers
15 the health and safety of building occupants, future occupants, workers, or adjacent neighbors;

16 (3) Work under permit performed by a party without required license—Demolition
17 without or beyond the scope of a building permit; or

18 (4) Other substantial non-compliance, including but not limited to, work without or beyond
19 the scope of a building permit;

20 Inspection Services Division the inspector shall log the violation notify their Senior and Chief
21 Inspector by submitting a report describing the observed violations, and identifying all
22 individuals, agents, and other entities associated with the permit and/or project in the Permit Tracking
23 System or known to be associated with the permit and/or project at the time the Notice of Violation
24 is issued. The Senior and Chief Inspector shall log the report in the Compliance Control
25 Tracking File maintained by the Inspection Services Division.

1 **103A.6.2 Candidates for Expanded Compliance Control.**

2 (1) The Inspection Services Division shall review the Compliance Control Tracking File on a
3 monthly basis to determine if any project, individual, agent, or entity has been associated with three or
4 more reported violations within the last 18 months. Any such project, individual, agent, or entity shall
5 be a candidate for Expanded Compliance Control.

6 (2) Even if the three-or-more-violations standard is not met during the 18-month period, the
7 Department, in consultation with the City Attorney, Chief Inspector may designate a project,
8 individual, agent, or entity as a candidate for Expanded Compliance Control for any violation or one
9 or two violations during the 18-month period that the Department Chief Inspector determines,
10 individually or together, to be egregious.

11 **103A.6.3 Expanded Compliance Control List.**

12 For each project, individual, agent, or entity designated as a candidate for Expanded
13 Compliance Control, the following actions shall be taken:

14 (1) Inspection Services staff, designated by the Director of the Department of Building
15 Inspection, The Chief Inspector shall notify the candidate and request any exculpatory
16 information as to why Expanded Compliance Control is not warranted and shall draft a
17 summary report detailing the violation(s) and exculpatory evidence or arguments, if any, relevant to
18 whether the candidate warrants Expanded Compliance Control.

19 (2) The summary report shall conclude with a determination Chief Inspector shall
20 submit the report to the Deputy Director, who shall:

21 (a) that the candidate should be placed on the Expanded Compliance
22 Control List, and provide written findings supporting that determination; notify the candidate
23 and request any exculpatory information as to why Expanded Compliance Control is not
24 warranted; and or

1 **(b)** that the candidate should not be placed on the Expanded Compliance
2 Control List, and provide written findings for why the candidate does not warrant Expanded
3 Compliance Control if necessary, request additional information from the Chief Inspector.

4 **(3)** Upon completing review of the report and any additional information from the
5 candidate and Chief Inspector, the Deputy Director shall:

6 _____ **(a)** Determine the candidate should be subject to Expanded Compliance
7 Control and place the candidate on the Expanded Compliance Control List and provide written
8 findings for this determination; or

9 _____ **(b)** Determine the candidate should not be placed on the Expanded
10 Compliance Control List, and provide written findings for why the candidate does not warrant
11 Expanded Compliance Control.

12 _____ **(4)** The Director of the Department of Building Inspection shall review all Expanded
13 Compliance Control determinations made by designated staff the Deputy Director and shall make a
14 final determination either affirming or overruling their Deputy Director's determination or
15 overruling the Deputy Director's determination. The Director shall either adopt the staff Deputy
16 Director's findings or issue the Director's own written findings detailing the basis for the final
17 determination. The Department shall notify the candidate in writing of the Director's final
18 determination, and shall post the final determination on the Department's website in a manner that
19 complies with all City regulations regarding multilingual accessibility.

20 **(45)** Any person may appeal the Director's final determination to the Building Inspection
21 Commission pursuant to the provisions of Chapter 77 of the Administrative Code.

22 _____ **(56)** The Director shall maintain the Expanded Compliance Control List on the Department's
23 website and shall provide the list to the Building Inspection Commission on a quarterly basis
24 commencing when the first project, individual, agent, or entity is placed on the list.

25 **103A.6.4 Expanded Compliance Control Provisions.**

1 **103A.6.4.1 Duration.** *Any project, individual, agent, or entity placed on the Expanded*
2 *Compliance Control List (“listee”) shall remain on the list for five years. Any subsequent significant*
3 *violation(s), as defined in subsection 103A.6.1, by a listee shall extend the period of Expanded*
4 *Compliance Control for that listee by five years from the date of the subsequent violation(s).*

5 **103A.6.4.2 Measures.** *Upon placing a project, individual, agent, or entity on the Expanded*
6 *Compliance Control List, the Department shall take the following actions:*

7 (1) Refer the listee to any applicable licensing board or regulatory agency with the
8 Director’s final determination and written findings;

9 (2) Require all existing permit applications and addenda and any new applications or
10 addenda submitted by or containing reference to the listee undergo Expanded Compliance Control by
11 senior Plan Review Services staff and multi-station (all permit stations applicable to a given
12 permit) project—Planning Department, Public Works, Fire Marshal) review at intake and after the
13 Planning Department approves the Site Permit (if applicable); and notify all parties listed on the
14 applications or addenda for these permits of the Expanded Compliance Control requirement;

15 (3) Require ~~multi-station~~ site inspections by the Department of Building Inspection and
16 Planning Department prior to any permit issuance submitted by or containing reference to the listee;

17 (4) Require that a licensed contractor be named on the permit prior to issuance,
18 unless the applicant is filing for the permit as an Owner-Builder, in conformance with
19 California Health and Safety Code Section 19825;

20 (5) Dedicate a Senior Inspector to perform inspections and respond to any complaints or
21 requests regarding the listee; and

22 (6) If warranted, consult with the City Attorney about any additional enforcement actions.

23 **103A.6.5 Permit review staff training.**

24 No later than September~~June~~ 30, 2021, the Department shall provide written guidance and
25 conduct training sessions for all plan review staff on how to recognize and flag permits that signal

1 ~~potential abuse, including but not limited to serial permit applications and post hoc excuses for~~
2 ~~significant expansion of scope during construction. All guidance and training materials and~~
3 ~~procedures shall be prepared with a goal of being sensitive to the cultural differences of~~
4 ~~individuals, agents, and other entities associated with permits and/or projects as well as~~
5 ~~current and future building occupants, workers, or adjacent neighbors. Further, the Department~~
6 ~~shall create and implement guidelines for require that staff to escalate any permits that indicate~~
7 ~~potential abuse to senior review staff for their review and refer such permits to the Planning~~
8 ~~Department to ensure they are consistent with preceding Planning Department approvals.~~
9

10 Section 4. Severability.

11 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
12 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
13 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
14 remaining portions or applications of this ordinance. The Board of Supervisors hereby
15 declares that it would have passed this ordinance and each and every section, subsection,
16 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
17 whether any other portion of this ordinance or application thereof would be subsequently
18 declared invalid or unconstitutional.
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20 Section 5. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.
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1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: /s/ Robb Kapla
4 ROBB KAPLA
Deputy City Attorney

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